

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

VIRTAMOVE, CORP.,

Plaintiff,

v.

INTERNATIONAL BUSINESS MACHINES
CORP.,

Defendant.

Case No. 2:24-cv-00064-JRG

JURY TRIAL DEMANDED

**DECLARATION OF NIMESH BHATIA
IN SUPPORT OF IBM'S MOTION TO TRANSFER VENUE**

I, Nimesh Bhatia, declare as follows:

1. I am an employee of International Business Machines Corporation ("IBM") and have been since September 2000. I live and work in San Jose, California I am currently the Program Director of Instana Observability Engineering at IBM. I was Senior Technical Lead for IBM CloudLabs (the predecessor to Open Technology Development) between the years 2000–2014 and Program Director of the Open Technology Development team for Cloud and Containers between the years 2017–2021.

2. I understand that in this action VirtaMove, Corporation ("VirtaMove") alleges infringement of U.S. Patent Nos. 7,519,814 and 7,784,058 (the "Asserted Patents") by IBM.

3. I submit this declaration in support of IBM's Motion to Transfer Venue.

4. Unless indicated otherwise, I have personal knowledge of the facts contained in this declaration or they are based on research conducted under my supervision and direction, and if called upon to do so, I could and would testify competently to the matters set forth herein.

5. IBM has a significant presence in the San Francisco Bay Area. IBM's Almaden Research Center is located in San Jose, CA and is one of IBM's premier research laboratories with approximately 429 full-time employees. IBM's Silicon Valley Lab is located in San Jose, CA and is one of IBM's largest software development laboratories with approximately 1,703 full-time employees. In total, IBM has approximately 889 full-time employees located in San Francisco, CA, and approximately 2,231 full-time employees located in San Jose, CA.

6. IBM's Silicon Valley Lab is home to IBM's Open Technology Development Team (also consisting of IBM's former IBM CloudLabs and HIPODS (High Performance On-Demand Solutions) team). The Open Technology Development Team is located in San Jose, CA. This team is responsible for leading cloud-native open-source software teams focused on providing contributions to various open-source containerization-related projects. The engineers on IBM's Open Technology Development team are heavily involved in maintaining, updating, and approving open-source cloud solutions, including Kubernetes.

7. Throughout the development of containerization-related technologies in the Bay Area, IBM software engineers have contributed to various open-source products such as Cloud Foundry, Mesos, Docker products Swarm and Moby, Linux products Zen and Partitions, ContainerD, Knative, Tekton, Kubernetes, and others. This development took place in San Jose, CA.

8. Relevant IBM employees with knowledge as to IBM's Open Technology Development team's contributions to open-source containerization-related products, such as Kubernetes, include myself, Jonathan Berkahn, Srinivas Brahmaraoutu, and Michael Maximilien.

9. Mr. Berkahn lives and works in San Jose, CA and was a Cloud Foundry contributor from 2013–2017, a Kubernetes SIG (Special Interest Group) Service Catalog

Maintainer from 2017–2018, and a Kubernetes SIG Service Catalog Co-Chair from 2019–present day all within the Open Technology Development team in IBM’s Silicon Valley Lab.

10. Mr. Brahmaroutu lives and works in San Jose, CA and was a Cloud Foundry contributor from 2012–2013, a Docker contributor from 2013–2015, a Mesos contributor from 2016–2016, all within the Open Technology Development team in IBM’s Silicon Valley Lab and now works on IBM’s products team including on the Data Stage product.

11. Mr. Maximilien lives and works in San Jose, CA and was a Research Scientist and Software Engineer at IBM’s Almaden Research Center from 2004–2013, Chief Architect of PaaS Innovation for IBM CloudLabs at IBM’s Silicon Valley Lab from 2014–2017, and now a Distinguished Engineer for IBM Research in San Francisco, CA.

12. IBM also operates cloud data centers in the Bay Area, providing infrastructure services and cloud computing resources to businesses in the region.

13. Kubernetes is developed and managed by the Cloud Native Computing Foundation (“CNCF”), which is a sub-foundation within the Linux Foundation. CNCF is based in San Francisco, CA. Likewise, the Linux Foundation is based in San Francisco, CA.

14. IBM does not develop its own container orchestration software platform like Kubernetes.

15. Docker is developed and managed by Docker, Inc. Docker, Inc. is based in Palo Alto, CA.

16. IBM does not develop its own software for building, packaging, and running containerized applications like Docker.

17. However, over the years of its collaboration with Docker, IBM employees worked extensively with people at Docker, including Solomon Hykes, and Jessie Frazelle.

18. Mr. Hykes is a co-founder of Docker and was formerly Docker's CEO and CTO. Mr. Hykes lives and works in San Francisco, CA.

19. Ms. Frazelle was a software engineer at Docker from 2014–2016. Ms. Frazelle lives and works in San Francisco, CA.

20. Mr. Egloff was the Director of Strategic Alliances for IBM and other companies while at Docker between the years 2015–2018. During this time, Mr. Egloff was based in San Francisco, CA.

21. IBM employees with knowledge as to IBM's collaboration with Docker include myself, Srinivas Brahmaroutu, and Michael Maximilien. Mr. Brahmaroutu and I are both located in San Jose, California.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: August 12, 2024

/s/ N Bhatia
Nimesh Bhatia